

The present invention is directed to the use of a lipophilic flavor in a water-and-oil emulsion containing a mesomorphic phase of edible surfactant and comprising either less than 5 wt. % edible triglyceride fat or a gelled biopolymer phase having the lipophilic flavor.

The Office points to Wesdorp et al., U.S. Patent No. 5,620,734 as teaching "a flavor at column 18, line 39." Applicants do not deny that Wesdorp et al. teach use in Example II.23 of a flavor at column 18, line 29. However, the present invention is directed to use of a lipophilic flavor. The Office points to no teaching in Example II.23 of use of such a flavor by Wesdorp et al. Moreover, the flavor pointed to by the Office is present in the aqueous phase. It is not clear why one of ordinary skill would include in an aqueous phase (having 85.39% water) a lipophilic flavor. The other phase of the cited example, the mesomorphic phase, includes even more water, 94.5 wt. %. Therefore, it is not apparent why one of ordinary skill would have used a lipophilic flavor even if one ignored the fact that the flavor is added to the aqueous phase. Since the flavor is added to the aqueous phase in the cited example of Wesdorp and since the Wesdorp example is overall a very high water product, it is not apparent why one of ordinary skill would be led to use a lipophilic flavor therein.

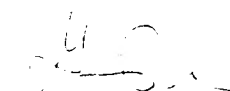
Singer et al, U.S. Patent No. 5,202,146 discloses a flavor delivery system for delivery of fat soluble flavor compounds into non-fat and low fat food products, which comprises fat globules into which elevated levels of fat soluble flavor compounds have been loaded. Among the fat globules which Singer et al. lists as suitable carrier systems, are emulsifiers. The Office has pointed to no discussion of how to solve taste problems associated with very low fat products comprising emulsifier structuring agents. Indeed, since Singer et al. talk about adding flavor to emulsifiers as the carrier vehicles, it is

unclear why one of ordinary skill would further include triglyceride as recited in present claim 1 and following. Moreover, as to claims 11, 12 and 25, and those depending therefrom, it is even less clear why one of ordinary skill would be led by Singer et al. to a food having a gelled biopolymer phase wherein the gelled biopolymer phase includes lipophilic flavor.

Heertje et al, U.S. Patent No. 5,652,011 discloses in Example 1 a zero fat spread containing monoglycerides and flavor. 95.2% of the composition is tap water. The Office points to no teaching why one of ordinary skill would use in the Heertje et al. example having 95% tap water a lipophilic flavor.

In view of the foregoing, it is respectfully requested that the application be allowed.

Respectfully submitted,



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